

Maximum charge per side (non-cross):
\$100.00

Maximum charge per side (cross):
\$75.00

(contract value accumulates for volume discounts)

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to clarify certain provisions of the fee schedule. The trade recording and comparison charges are being amended to reflect that all trades up to and including 2,000 shares executed on the Exchange will not be charged, and that all other executions will be charged under the current scale applicable to trades over 2,000 shares.² The value charges are being amended to add explanatory language that the contract value of trades will accumulate for the volume discounts and to clarify that all other executions pertain to BSE trades over 2,000 shares and ITS trades.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it furthers the objectives to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and in general, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The fee change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the fee change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file No. SR-BSE-95-06 and should be submitted by May 17, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 95-10224 Filed 4-25-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-35629; File No. SR-CBOE-94-44]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval of Amendments to a Proposed Rule Change Relating to Market Maker Appointments

April 19, 1995.

I. Introduction

On November 14, 1994, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposal to amend CBOE Rule 8.3(c) concerning the number of trading stations at which a single market maker's appointed classes of options are traded. The proposed rule change was published for comment and appeared in the **Federal Register** on January 12, 1995,³ on February 21, 1995, the CBOE filed Amendment No. 1 to its proposal,⁴ on February 24, 1995, the CBOE filed Amendment No. 2 to its proposal,⁵ and on April 11, 1995, the CBOE filed Amendment No. 3 to its

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1994).

³ See Securities Exchange Act Release No. 35192 (January 4, 1995), 60 FR 3012.

⁴ In Amendment No. 1, the CBOE provides information comparing its method of assigning classes of options to that of the American Stock Exchange ("Amex"), describes the effect of increasing the number of trading stations to which a market maker's appointment may relate from five to ten, provides further rationale for this increase; and states that future changes respecting the number of applicable trading stations would be made pursuant to a filing under Section 19(b)(3)(A) under the Act, 15 U.S.C. 78s(b)(3)(A) (1988). See letter from Michael L. Meyer, Schiff, Hardin & Waite, to Francois Mazur, Attorney, Division of Market Regulation ("Division"), Commission, dated February 17, 1995. The reference in Amendment No. 1 regarding the means by which future changes will be effected is superseded by Amendment Nos. 2 and 3, *infra* notes 5 and 6, respectively.

⁵ Amendment No. 2 states that the CBOE will discuss with Commission staff the appropriate manner in which to file future changes in the maximum number of designated trading stations prior to making any such filing with the Commission. See letter from Mary L. Bender, Senior Vice President, Division of Regulatory Services, CBOE to Francois Mazur, Attorney, Division, Commission, dated February 23, 1995.

² The scale also applies to all ITS trades.

proposal.⁶ No comments were received regarding the proposal. This order approves the proposal, as amended.

II. Description of the Proposal

The CBOE proposes to increase from five trading stations to ten the maximum number of trading stations at which a market maker's appointed classes of options may be traded pursuant to CBOE Rule 8.3(c).⁷ In addition, the MPC maintains its authority to provide exemptions to the trading station limitation. The CBOE's proposal also will have the effect of allowing market makers to rely on the market maker exemption to the NASD's short sale rule for hedging a greater number of options classes, provided that the requirements of the exemption are met.⁸

III. Discussion

The Commission finds the proposed rule change consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act because the proposal is designed to remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest.

The Commission believes that increasing the number of trading

stations which may be included in a market maker's appointment from five stations to ten stations is a reasonable measure designed by the Exchange to help ensure adequate market maker participation in each class of options traded on the Exchange. The Exchange has stated that the effect of increasing the trading station maximum will be to increase the maximum number of options classes in which a market maker may hold an appointment. Accordingly, out of a total of 644 classes of options at the CBOE, the change can result in increases from 137 to 241 in appointed classes, representing an increase from 21% to 37% of the total number of classes traded on the Exchange.⁹

The Commission believes that the CBOE's proposal will benefit the market and investors by increasing the potential number of options classes to which the obligations of a market maker will apply.¹⁰ Although the Commission recognizes that the proposal can result in increasing a market maker's appointed classes by over 100 classes, we believe adequate market making capabilities and obligations will continue to exist in such classes. In this regard, the Commission expects CBOE to assess whether market makers have adequate capital to fulfill their continual market making obligations under CBOE Rule 8.7 in all their appointed classes. Further, the in-person and general trading requirements applicable to market makers under CBOE Rule 8.7, Interpretation and Policy .03¹¹ should

continue to ensure that market making is adequate in all appointed classes.¹² Finally, in light of the growth of the number of options traded on the Exchange in recent years, the increase from 21% to 37% of the classes traded on the CBOE is reasonable.¹³

The Commission finds good cause for approving Amendment No. 1, as modified by, and together with, Amendment Nos. 2 and 3, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 1 provides additional information regarding the number of options classes affected by the Exchange's proposal, as well as general information regarding the structure of its trading floor. Amendment No. 2 modifies Amendment No. 1 by stating that the CBOE will consult with Commission staff regarding the manner in which to file any future changes to the maximum number of trading stations at which market makers may hold appointments. Amendment No. 3 effects changes to Proposed Rule 8.3(c), but does not change the effect of the Exchange's proposal.

The Commission believes that these changes do not affect the substance of the Exchange's proposal because they merely serve to provide additional data regarding the proposal, describe guidelines for seeking Commission approval of future changes by the MPC in trading station appointments, and fashion minor textual changes to the proposed language of Rule 8.3(c). Accordingly, the Commission believes the Amendments raise no new or unique regulatory issues. Therefore, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act¹⁴ to approve Amendment Nos. 1, 2, and 3 to the proposal on an accelerated basis.

⁶ Amendment No. 3 amends the original proposed changes to Rule 8.3(c) by removing reference to the Market Performance Committee ("MPC") designating the maximum number of trading stations, and by removing Proposed Interpretation and Policy .02 which stated that the MPC had designated such maximum number to be ten. Proposed Rule 8.3(c) now replaces five with ten as the maximum number of trading stations at which a market maker may hold an appointment. Amendment No. 3 also discusses the alternative means by which future proposed changes to Rule 8.3(c) may be filed, and states that the MPC, when assigning station appointments to market makers, considers, among other matters, the physical location of stations to be assigned to a market maker. See letter from Mary L. Bender, Senior Vice President, Division of Regulatory Services, CBOE, to Michael Walinskas, Branch Chief, Division, Commission, dated April 10, 1995.

⁷ See Amendment No. 3, *supra* note 6.

⁸ The NASD short sale rule prohibits broker-dealers from effecting short sales for themselves or their customers at or below the "bid" when the current "inside" or best price is below the previous inside bid. See NASD Rules of Fair Practice, Art. III, section 48. The CBOE's market maker exemption to the short sale rule allows options market makers to hedge options positions in their appointed classes of options by buying or selling (including selling short) shares of underlying stocks or underlying component stocks contained in stock indexes. Such an "exempt hedge transaction" is defined by the Exchange as a short sale effected to hedge, and which in fact serves to hedge, an existing offsetting options position or an offsetting options position that was created in one or more transactions contemporaneous with the short sale. See CBOE Rule 15.10.

⁹ See Amendment No. 1, *supra* note 4. In comparison, the CBOE notes that a registered options trader on the Amex may be assigned to 300 classes of options or more representing 70% of the 430 classes of options traded on the Amex. *Id.*

¹⁰ For example, CBOE Rule 8.7 requires generally that a market maker's transactions constitute a course of dealing reasonably calculated to contribute to the maintenance of a fair and orderly market. Specific requirements include a market maker's continuous obligation to deal for his or her own account when there is a lack of price continuity; or when there is a disparity between supply and demand for a particular option contract, or between options contracts of the same class. In fulfilling these requirements, market maker must, among other things, compete with other market makers to improve markets, make markets, and update market quotations in response to changed market conditions.

The Commission notes that increasing the number of trading stations at which a market maker may hold an appointment does not in any way lessen a market maker's obligation to make a market. The CBOE has stated that the MPC, when assigning station appointments to market makers, considers, among other matters, the physical location of the stations to be assigned to a market maker. See amendment No. 3, *supra* note 6.

¹¹ CBOE Rule 8.7, Interpretation .03 generally requires that at least 25% of a market maker's transactions be executed in person, and not through the use of orders. Moreover, at least 75% of a market maker's total contract volume must be in option classes to which the market maker has been appointed.

¹² The Commission notes that any further increases may warrant the development of additional standards to ensure adequate market making performance.

¹³ The CBOE has indicated in its proposal that, in the future, it will consult with Commission staff in order to determine the appropriate rule filing method for proposing any further increases to the maximum trading stations at which a market maker may hold an appointment. The alternatives would include: (1) filing a proposal pursuant to Section 19(b)(2) of the Act, which requires that the Commission publish notice of the proposal and provide an opportunity for public comment; or (2) filing a proposal pursuant to Section 19(b)(3)(A) of the Act, including either a filing that would be effective immediately upon filing, or operative 30 days after the filing date, if filed as a non-controversial rule proposal. See Amendment Nos. 2 and 3, *supra* notes 5 and 6, respectively.

¹⁴ 15 U.S.C. 78f(b)(5) and 78s(b)(2) (1988).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendments Nos. 1, 2, and 3. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-94-44 and should be submitted by May 17, 1995.

V. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act, and, in particular, Section 6 of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁵ that the proposed rule change (File No. SR-CBOE-94-44), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-10222 Filed 4-25-95; 8:45 am]

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[Release No. 34-35631; International Series Release No. 805; File No. SR-Phlx-95-06]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to British Pound Strike Price Intervals

April 20, 1995.

I. Introduction

On January 30, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4

thereunder,² filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to revise its strike price policy respecting foreign currency options on the British pound by changing from: a \$.025 interval to a \$.01 interval in the nearest three expiration months; a \$.025 interval to a \$.02 interval in the next three nearest expiration months; and a \$.05 interval to a \$.04 interval for long-term British pound options, which have 12 to 36 months until expiration.

Notice of the proposal was published for comment and appeared in the **Federal Register** on March 3, 1995.³ No comment letters were received on the proposed rule change. This order approves the Exchange's proposal.

II. Description of the Proposal

The Phlx has proposed to revise its strike price policy respecting foreign currency options on the British pound pursuant to Phlx Rule 1012—Series of Options Open for Trading by adopting shorter strike price intervals than currently used. Currently, British pound options are listed at 2½ cent intervals; long-term options are listed at 5 cent intervals. Pursuant to Phlx Rule 1012, six expiration months are currently listed in regular foreign currency options, with one, two, three, six, nine, and twelve months until expiration. Additionally, two long-term options are currently listed (in June and December) with 18 and 24 months until expiration. Fluctuations in the spot price of the British pound currently result in additional listings at 2½ cent intervals.⁴

The Exchange proposes to revise its strike price policy respecting foreign currency options on the British pound by changing from a \$.025 interval to a \$.01 interval in the nearest three expiration months and from a \$.025 interval to a \$.02 interval in the next three nearest expiration months. In addition to reducing the strike price interval from 2½ cents to 1 and 2 cents, respectively, the Exchange also proposes to reduce the strike price interval for long-term British pound options, which have 12 to 36 months until expiration, from \$.05 to \$.04.

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 35420 (February 27, 1995), 60 FR 11999 (March 3, 1995).

⁴ Currently, the addition of strike prices, which is governed by Phlx Rules 1012 and 1101A, is determined by the movement of the underlying stock, index, or foreign currency, such that strike prices reasonably close to the value of the underlying security are listed for trading. When the Exchange plans to add a new strike price, a memorandum is distributed to the trading floor as well as over electronic systems notifying the membership and their customers of the new strike. See Securities Exchange Act Release No. 34349 (July 11, 1994), 59 FR 36469 (July 18, 1994).

The Exchange states that the purpose of the proposed rule change is to address certain market needs that have arisen as a result of recent lower volatility respecting the British pound (in relation to the U.S. dollar), which has created a customer need for narrower strike price intervals.⁵ The Exchange represents that the lower volatility of the British pound has resulted in a narrower trading range for the currency option, sometimes limiting the availability of sufficient near- or at-the-money series.

Additionally, the Exchange believes the proposal is necessary to ensure that the British pound foreign currency option contract remains competitive and consistent with the contract terms applicable to British pound foreign currency futures (and futures options) traded on the Chicago Mercantile Exchange ("CME"). Recently, the CME determined to list certain options on British pound futures (the three near months) as \$.01 intervals.

The Phlx asserts that the proposed rule change will initially create 496 new strike prices.⁶ Additionally, both the Phlx and the Options Price Reporting Authority ("OPRA") represent that the predicted increase in the number of British pound options series will not adversely affect their respective computer processing capacities to accommodate the additional strike prices.⁷

The Exchange further states that its general policy with respect to the delisting of inactive options series, subject to the assigned option specialist's approval, is to delist series in which there is no open interest beginning with the highest or lowest strike for that month. The Exchange, however, may not delist a series if such

⁵ The Commission has previously approved certain Phlx proposals that shortened foreign currency option strike price intervals. See e.g., Securities Exchange Act Release Nos. 25685 (May 10, 1988), 53 FR 17524 (May 17, 1988) (French franc from \$.05 to \$.025 strike price intervals) (File No. SR-Phlx-86-14), and 24103 (February 13, 1987), 52 FR 5605 (February 25, 1987) (British Pound from \$.05 to \$.025 strike price intervals) (File No. SR-Phlx-86-14).

⁶ The total number of new strikes includes both puts and calls for American and European style options on the British pound. See Letter from Gerald O'Connell, First Vice President, Phlx, to Michael Walinskas, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated April 10, 1995 ("O'Connell Letter No. 1").

⁷ See Letter from William H. Morgan, Vice President, Phlx, to Michael Walinskas, OMS, Division, Commission, dated April 12, 1995 ("Morgan Letter"). See also Letter from Joseph P. Corrigan, Executive Director, OPRA, to William Terrell, Vice President, Phlx, dated April 6, 1995 ("OPRA Letter").

¹⁵ 15 U.S.C. 78s(b)(2) (1988).

¹⁶ 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. 78s(b)(1).